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| 10/632,561 | 07/31/2003 | Jaime E. Garcia | JK01243 | 2593 |
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| THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286 | | | DEXTER, CLARK F | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3724 | |

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,561

Applicant(s)

GARCIA ET AL.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
4a) Of the above claim(s) 9,15-20,26-29 and 34 is/are withdrawn from consideration.
5) ☒ Claim(s) 21-25 is/are allowed.
6) ☒ Claim(s) 1-8,10-14 and 30-33 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 15 August 2005 is/are: a) ☒ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/29/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment filed on August 15, 2005 has been entered.

Information Disclosure Statement

2. The information disclosure statement filed on July 29, 2005 has been received and the references listed thereon have been considered. For the references listed on the last two pages of the IDS (photos, manuals, etc), publication dates have not been and are hereby requested. Further, it is noted that Japanese publication 2000-343309 was provided but not listed on form PTO-1449. Therefore, it has been listed on form PTO-892 provided herewith.

Drawings

3. The drawings were received on August 15, 2005. These drawings are acceptable.
4. The drawings stand objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the grating as set forth in claim 8 must be shown or the feature(s) canceled from the claim(s). must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:

In the replacement paragraph for paragraph 0025 (filed Aug. 15, 2005), lines 15-16, the amended recitations are inaccurate, and it is suggested to change the last portion of the paragraph as follows:

-- Referring to FIG. 5, an optical alignment system mounted to a splitter may be disposed to project the first and second optical indicators 222 ~~[[522]]~~ and 224 ~~[[524]]~~ through a clear plastic guard. ~~(Which may be additionally observed in FIG. 2 as references 222 and 224.)~~ Alternatively, the optical indicators may be projected through an opening on the front of

the guard 536 included on the splitter 520, the opening formed between the sides 522 and 524 of the guard 536.--.

In the replacement paragraph for paragraph 0027 (filed Aug. 15, 2005), lines 6 and 10, each occurrence of "744" should be changed to --744, 844-- or the like.

Appropriate correction is required.

Claim Objections

6. Claims 1-8 are objected to because of the following informalities:

In claim 1, line 4, it seems that --a-- is missing before "rotating blade".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 4-7, 10, 11, 13, 30, 31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Bell et al., pn 4,885,967.

Claims 1, 2, 4-7:

Regarding independent claim 1, Bell discloses an optical alignment system with every structural limitation of the claimed invention as follows:

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a support device (e.g., support structure including end plates 28, 30) for supporting the optical alignment system with respect to a kerf having a first and a second side, said kerf created in a workpiece by operation of rotating blade included in a table saw;

at least one optical emitting device (e.g., 2, 3, 4) mounted in the support device, said at least one optical emitting device for projecting a first optical indicator and a second optical indicator; and

an alignment device (e.g., structure including rods 24, 26) coupled to the at least one optical emitting device, the alignment device being configured for adjusting the alignment of the projected first and second optical indicators with respect to the kerf,

wherein the at least one optical emitting device is arranged and configured to project the first and second optical indicators substantially in alignment with the first and second sides of the kerf.

Regarding dependent claims 2 and 4-7, as disclosed in Bell, the at least one optical emitting device is a laser (e.g., see col. 3, lines 20-21), the first optical indicator and the second optical indicator are lines of light visible to a human (e.g., see abstract, lines 6-7), at least one optical emitting device is fully capable of projecting the first and second optical indicators adjacent a rotating blade's cutting interface (i.e., if the claimed optical alignment system is used in such a manner - not necessarily how it is used in Bell, but in another application of intended use of the alignment system disclosed by Bell), the at least one optical emitting device comprises two optical emitting devices

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(e.g., 2, 3, 4) included in the optical alignment system, and each of the two optical emitting devices are individually alignable (e.g., using screw-threaded rods 24, 26).

Claims 10, 11, 13:

Regarding independent claim 10, Bell discloses an optical alignment system with every structural limitation of the claimed invention as follows:

a support (e.g., support structure including end plates 28, 30) for supporting the optical alignment system;

a first optical emitting device (e.g., one of 2, 3, 4) coupled to the support, said first optical emitting device being configured to project a first optical indicator substantially aligned with a first side of a kerf created in a workpiece by operation of the rotating blade (i.e., it is configured to perform such a function if the claimed optical alignment system is used in such a manner - not necessarily how it is used in Bell, but in another application of intended use of the optical alignment system disclosed by Bell); and

a second optical emitting device (e.g., a second one of 2, 3, 4) coupled to the support, said second optical emitting device being configured to project a second optical indicator substantially aligned with a second side of the kerf created in a workpiece by operation of the rotating blade (i.e., it is configured to perform such a function if the claimed optical alignment system is used in such a manner - not necessarily how it is used in Bell, but in another application of intended use of the optical alignment system disclosed by Bell),

wherein said first optical indicator and said second optical indicator are fully capable of being projected adjacent a cutting interface of the rotating blade, substantially indicating the first and second sides of the kerf (i.e., if the claimed optical alignment system is used in such a manner - not necessarily how it is used in Bell, but in another application of intended use of the optical alignment system disclosed by Bell).

Regarding dependent claims 11 and 13, as disclosed in Bell, the first and second optical emitting devices are lasers (e.g., see col. 3, lines 20-21), and the first optical indicator and the second optical indicator are lines of light visible to a human (e.g., see abstract, lines 6-7).

Claims 30, 31, 33:

Regarding independent claim 30, Bell discloses an optical alignment system with every structural limitation of the claimed invention as follows:

means (e.g., including 2, 3, 4) for projecting a first optical indicator substantially aligned with a first side of a kerf, created in a workpiece by operation of a table saw blade, and a second optical indicator substantially aligned with a second side of the kerf;

means (e.g., screw-threaded rods 24, 26) for aligning the projecting means with respect to the kerf.

Regarding dependent claims 31 and 33, as disclosed in Bell, the first and second optical emitting devices are lasers (e.g., see col. 3, lines 20-21), and the first optical

indicator and the second optical indicator are lines of light visible to a human (e.g., see abstract, lines 6-7).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 3, 12 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al., pn 4,885,967 in view of Matthews et al., pn 3,976,384.

Regarding claims 3, 12 and 32, Bell discloses an optical alignment system with almost every structural limitation of the claimed invention but lacks optical emitting devices being helium-neon lasers. However, such helium-neon lasers are old and well

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known in the art and provide various well known benefits including ability to generate a collimated beam of light which substantially minimizes alignment, calibration and measurement problems. Matthews et al. discloses one example of such helium-neon lasers. Therefore, it would have been obvious to one having ordinary skill in the art to provide helium-neon lasers on the optical alignment system of Bell for the well known benefits including those described above.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al., pn 4,885,967 in view of Nutt, pn 4,676,130.

Bell discloses an optical alignment system with almost every structural limitation of the claimed invention as described above for claim 10, but lacks the first and second laser emitting devices being fan laser beam generators. However, such fan laser beam generators are old and well known in the art and provide various well known benefits including providing line rather than point indication. Nutt discloses one example of such fan laser beam generators (e.g., see col. 6, lines 14-32). Therefore, it would have been obvious to one having ordinary skill in the art to provide fan laser beam generators on the optical alignment system of Bell for the well known benefits including those described above.

Allowable Subject Matter

12. Claims 21-25 are allowable over the prior art of record.
13. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Further, it is noted that claim 8 is also objected to under 37 CFR 1.83(a) because the drawings do not show every feature of the invention specified in the claim.

Response to Arguments

14. Applicant's arguments filed August 15, 2005 have been fully considered but they are not persuasive.

For applicant's benefit, the Examiner has carefully pointed out in the above prior art rejections how the prior art teaches or fairly suggests all of the claimed structure, expressed either explicitly or implicitly.

Initially, it is important to point out that, unlike claims 21-25 that are directed to a table saw, claims 1-8, 10-14 and 30-33 are directed to an optical alignment system for a table saw, wherein the claimed invention is directed to the optical alignment system and the specific structure thereof. The recitation "for a table saw" clearly indicates an intended use of the optical alignment system. Further, there is nothing in the body of the subject claims that clearly indicates that the invention is to include the table saw. It is acknowledged that the workpiece is referenced in the claims, particularly how the optical alignment system interacts with the workpiece as well as how the workpiece is

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formed (e.g., by operation of a rotating blade included in a table saw). However, the workpiece is not part of the claimed invention, but rather is part of a description of how the claimed invention is used; in other words, the limitations directed to the workpiece and the relationship between the optical alignment system and the workpiece are functional recitations of intended use.

Regarding applicant's argument on page 15 of the subject response directed to claim 1, the Examiner respectfully disagrees with applicant's analysis. First, as pointed out above, the relationship between the optical alignment system and the kerf of the workpiece is considered to be a functional recitation of intended use of the claimed optical alignment system, particularly since upon careful consideration, does not clearly set forth, even implicitly, and additional structure of the optical alignment system. Therefore, Bell discloses all of the claimed structural limitations. Further, contrary to applicant's allegation, Bell is clearly capable of performing the function of aligning first and second optical indicators as claimed, particularly since they are adjustable and clearly are fully capable of being used in such a manner.

Further, in the middle of the only full paragraph on page 15 of the subject response, applicant argues that

“Bell fails to teach a system in which projected optical indicators are utilized to aid alignment with the sides of the kerf formed in the workpiece.”

It is respectfully submitted that the recitation “are utilized to aid alignment” is clearly describing a manner in which the claimed invention is utilized; that is, the phrase is

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directed to a functional recitation of intended use. And, as applicant is well aware, such intended use statements/arguments cannot serve to distinguish the claimed invention over the prior art.

Further, at the end portion of the only full paragraph on page 15 of the subject response, applicant argues that

“Anticipation cannot be established when ‘the prior art is lacking or missing a specific feature or the structure of the claimed invention.’ ”

The Examiner agrees with applicant's statement, but respectfully disagrees with applicant's analysis. It is respectfully submitted that applicant has not pointed out what “specific feature or the structure of the claimed invention” is lacking in the prior art, specifically Bell. Applicant has only argued that Bell is not used in the same manner as the present invention. That is, Bell clearly discloses at least one optical emitting device that is arranged and configured to project the first and second optical indicators. The recitation directed to what the indicators are aligned with (i.e., the first and second sides of the kerf), particularly considering only the optical alignment system of Bell, is a matter of how the optical alignment system of Bell is used which, as previously stated, particularly when not clearly implying additional structure of the claimed invention, cannot serve to distinguish the claimed invention over the prior art.

Regarding applicant's argument in the second paragraph on page 16 of the subject response, it is respectfully submitted applicant again argues the Bell is not used in the same manner as the claimed invention. The Examiner respectfully maintains that recitation directed to how the optical alignment system of Bell is used is a functional

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recitation of intended use of the optical alignment system disclosed by Bell and such functional recitations of intended use, particularly when not clearly implying additional structure of the claimed invention, cannot serve to distinguish the claimed invention over the prior art.

Regarding applicant's argument in the paragraph bridging pages 16-17 of the subject response, it is respectfully submitted applicant again argues the Bell is not used in the same manner as the claimed invention. It is acknowledged that claim 30 is in "means plus function" form. However, such "means plus function" recitations must be considered in terms of the disclosed structure (or equivalents thereof) that they represent. It is respectfully submitted that Bell discloses all of the structure of the optical alignment system represented by "means plus function" limitations of claim 30. Further, it is respectfully submitted that, even when the claims are presented in "means plus function" form, the relationship between the optical alignment system and the workpiece remains a functional recitation of intended use of the claimed optical alignment system.

Regarding applicant's argument in the paragraph bridging pages 17-18 of the subject response, the Examiner respectfully submits that the motivation to combine Bell and the teachings of Nutt has been set forth in the applicable prior art rejections, and that Nutt further teaches reasons to modify Bell.

Regarding applicant's argument in the paragraph bridging pages 18-19 of the subject response, the Examiner respectfully submits that in response to applicant's argument based upon the age of the references, contentions that the reference patents

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are old are not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references.

Regarding applicant's argument in the paragraph bridging pages 19-20 of the subject response, applicant argues that

"As Matthews and Bell are utilizing laser for different purposes, there is no indication in the references that one of ordinary skill in the art would have the asserted knowledge. Furthermore, Bell and Matthews fall within different classifications, and no other reference has been cited for the asserted motivation to combine the asserted knowledge of one of ordinary skill in the art with the Bell reference."

However, the Examiner respectfully disagrees with applicant's analysis. Once given the laser of Bell, one having ordinary skill in the art would know to look to the laser art to improve upon or otherwise modify the laser to gain known benefits in the laser art. Therefore, it is respectfully submitted that the references are analogous and the rejection is proper.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571)272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Clark F. Dexter
Primary Examiner
Art Unit 3724

cfid
February 2, 2005